

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

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# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE I – MISDEMEANORS

### SECTION 2-101: DRINKING ON STREETS, IN PUBLIC PLACES OR ON PUBLIC PROPERTY; PERMITS FOR; APPLICATION

It shall be unlawful for any person to drink alcoholic liquor of any kind on the streets or alleys, or upon property used or owned by the government of the United States, the State of Nebraska, or any governmental subdivision thereof, or in theaters, dance halls or in any other place open to or frequented by the public within said city, unless such premises are licensed for such purposes by the State of Nebraska or unless a special permit has been granted for the same by the City Council.

Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the City Council may permit such consumption on such terms and conditions as it may determine. For such permit to be issued, written application must be made to the city clerk and the same must be acted upon at a special or regular meeting of the City Council. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered. (Ref. 53-186, 53-1,100 RS Neb.)

### SECTION 2-102: DISTURBING THE PEACE

It shall be unlawful for any person or persons to engage in unreasonably loud conduct between the hours of 11:00 P.M. and 7:00 A.M.. For purposes of this section, unreasonably loud shall mean that which can be heard three hundred feet (300') away or more and which does not result from a legitimate commercial activity, conducted in the quietest fashion reasonably possible. This section shall not apply to horns or other noises when reasonably used with the intent to warn another of danger. The type of conduct prohibited includes, but is not limited to, loud music, shouts, honking, banging, or any other unnecessary noise except where excepted herein. Any person or persons who violate this ordinance shall be guilty of a misdemeanor.

Each year for a one week period beginning on June 27<sup>TH</sup> and ending on July 4<sup>TH</sup> unlawful conduct under this ordinance shall not be a violation of this ordinance between the hours of 11:00 P.M. and 12:00 A.M. but shall still be a violation between the hours of 12:00 A.M. and 7:00 A.M.

*{Ordinance 232(14), August 12, 2014}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-103: EXCESSIVE NOISE CONTROL

It shall be unlawful for any person or persons to engage in unreasonably loud conduct between the hours of 7:00 A.M. and 11:00 P.M.. For purposes of this section, unreasonably loud shall mean that which can be heard six hundred feet (600') away or more and which does not result from a legitimate commercial activity, conducted in the quietest fashion reasonably possible. This section shall not apply to horns or other noises when reasonably used with the intent to warn another of danger. The type of conduct prohibited includes, but is not limited to, loud music, shouts, honking, banging, or any other unnecessary noise except where excepted herein. Any person or persons who violate this ordinance shall be guilty of a misdemeanor.

Each year for a one week period beginning on June 27<sup>TH</sup> and ending on July 4<sup>TH</sup> unlawful conduct under this ordinance shall be a violation between the hours of 11:00

P.M. and 12:00 A.M. in addition to the hours enumerated above.

*{Ordinance 233(14), August 12, 2014}*

## SECTION 2-104: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in any riotous or disorderly conduct, or to fight, strike or assault another person in a threatening manner, or to do or engage in any other disorderly act within said city. (Ref. 17-129, 17-556 RS Neb.)

## SECTION 2-105: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person, wantonly or maliciously, in any manner to molest, injure or destroy any property of another, in this city. (Ref. 28-572, 28-573 RS Neb.)

## SECTION 2-106: MALICIOUS MISCHIEF

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, structure or thing of value which is located upon any government property, cemetery or property of historic value.

Any such offender shall be liable, in an action for trespassing in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-107: CRIMINAL TRESPASS

It shall be unlawful for any person, knowing that he/she is not licensed or privileged to do so, to:

1. Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or
2. Enter or remain in any place as to which notice against trespass is given by:
  - a. Actual communication to the actor; or
  - b. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
  - c. Fencing or other enclosure manifestly designed to exclude intruders.

(Ref. 28-520, 28-521 RS Neb.)

## SECTION 2-108: DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute. (Ref. 28-801 through 28-803 RS Neb.)

## SECTION 2-109: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the City. (Ref. 17-556 RS Neb.)

## SECTION 2-110: WINDOW PEEPING

It shall be unlawful for any person to maliciously or stealthily go upon the premises of another in said city and look or peep into any window, door or other opening in any building located thereon which is occupied as a place of abode, or to go upon the premises of another for the purpose of looking or peeping into any window, door or other opening in any building thereon which is occupied as a place of abode.

## SECTION 2-111: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section, "harass" shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and "course of conduct" shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning the person.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-112: OPERATING GAMBLING DEVICES OR LOTTERY; PROHIBITED

It shall be unlawful for any person or organization to operate or permit to be operated in this city any lottery, game of chance or gambling device of any kind, except as licensed by the State of Nebraska or provided for in the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, Gift Enterprises, or the State Lottery Act. (Ref. 28-1101 through 28-1117) {Ordinance 236(14) September 9, 2014}

## SECTION 2-113: GAMBLING PROHIBITED

It shall be unlawful for any person to participate in any lottery or game of chance, except as licensed by the State of Nebraska or provided for in the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, Gift Enterprises, or the State Lottery Act. (Ref. 28-1101 through 28-1117) {Ordinance 236(14) September 9, 2014}

## SECTION 2-114: PANDERING, PROSTITUTION, AND ILLICIT SEXUAL INTERCOURSE; PROHIBITED

It shall be unlawful for any person to engage in or commit any act of pandering, prostitution or illicit sexual intercourse within said City.

## SECTION 2-115: HOUSE OF PROSTITUTION; DISORDERLY HOUSE; PROHIBITED

It shall be unlawful for any person to keep, operate or maintain or to be an inmate of or visit a house of prostitution or a disorderly house within this city. A house of prostitution shall be construed to mean a house or other place which is kept, used or operated as a place for hire for prostitution purposes. A disorderly house shall be construed to mean any place kept in such a manner as to disturb, annoy or scandalize the public generally or persons within the particular neighborhood, or any place used as a public resort by drunkards, prostitutes or other idle or vicious persons, or any place of public resort where illegal practices are habitually carried on to the corruption of public morals. (Ref. 28-804 RS Neb.)

## SECTION 2-116: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY DESIGN

It shall be unlawful for any person within this city to make an indecent exposure of his or her person; to urinate or defecate in public view; to commit any indecent or lewd act; or to sell or offer for sale, or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.



# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-117: CARRYING CONCEALED WEAPONS; DISCHARGING FIREARMS, ETC., PROHIBITED

It shall be unlawful for any person, except a police officer in the performance of his/her duties, to carry any dangerous weapons concealed on or about his/her person, his/her automobile or elsewhere, or to discharge any firearms, airgun or slingshot loaded with rock or other dangerous missiles, within this city; provided, this section shall not apply to shooting galleries or other private shooting ranges within buildings or other structures approved by the mayor and City Council. (Ref. 17-556 RS Neb.)

## SECTION 2-118: RESISTING OR FAILING TO ASSIST AN OFFICER PROHIBITED

It shall be unlawful for any person in this city to hinder, obstruct or resist any police officer or policeman in making any arrest or performing any duty of his/her office, or to refuse or neglect to assist any such officer when called upon by him/her in making of any arrest or the conveying of a prisoner to jail. (Ref. 28-903, 28-904 RS Neb.)

## SECTION 2-119: IMPERSONATING OFFICER PROHIBITED

It shall be unlawful for any person in said city, other than a regular policeman or other authorized officer or employee of the city, to wear a badge similar to or resembling the badges prescribed for or furnished the police force or any other officer or employee of the city, or to willfully impersonate, or endeavor to impersonate, any such policeman, officer or employee or seek to exercise authority as such. (Ref. 28-610 RS Neb.)

## SECTION 2-120: LITTERING

Any person who deposits, throws, discards or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

1. Such property is in an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or
2. The litter is placed in a receptacle or container installed on such property for such purpose.

The word "litter" as used in this section shall mean all waste material susceptible to being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

Waste material as used in this section shall mean any material appearing in a place or in a context not associated with the material's function or origin. Waste material shall not include grass, leaves or worthless vegetation that is used as a ground mulch or in a compost pile.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering. (Ref. 17-123.01, 28-523 RS Neb.)

{Ordinance 190(09) – May 12, 2009}

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-121: TRASH

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premise of another any filth, garbage, leaves, papers or other matter to the annoyance of the owner or occupant thereon. (Ref. 28-591 RS Neb.)

## SECTION 2-122: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer or any other appliance to be outside of an enclosed structure and accessible to children whether on private or public property, unless he/she shall first remove all doors and make the same reasonably safe. (Ref. 18-1720, 28-1321 RS Neb.)

## SECTION 2-123: POSTING NOTICES; TAMPERING WITH PUBLIC PROPERTY

No person in the City shall fasten in any way any showcard, poster or other advertising device upon public property in the City unless legally authorized to do so; tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fireplug, typographical survey monument or any other personal property erected or placed by the City; place or erect upon public way or passageway to any building an obstruction of any type, provided that this section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public. (Ref. 17-140, 17-207 RS Neb.)

## SECTION 2-124: OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain or suffer to remain on any street or public sidewalk a stand, wagon, display or other obstruction inconvenient to or inconsistent with the public use of the same.

## SECTION 2-125: TOBACCO PURCHASE BY MINORS PROHIBITED

It shall be unlawful for any minor under the age of 18 years to smoke, purchase or attempt to acquire tobacco, cigarettes or cigars of any kind. Upon conviction, the penalty for said offense shall not exceed a fine of \$10.00.

## SECTION 2-126: TOBACCO SALE TO MINORS PROHIBITED

It shall be unlawful for any person to sell or attempt to sell to any person under the age of 18 years any tobacco, cigarettes or cigars of any kind. Upon conviction, the penalty for said offense shall not exceed a fine of \$10.00.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-127: SHOPLIFTING

A person commits the crime of shoplifting when he/she, with the intent of appropriating merchandise to his/her own use without paying for the same or to deprive the owner of possession of such property or its retail value, in whole or in part, does any of the following:

- 1 Conceals or takes possession of the goods or merchandise of any store or retail establishment;
- 2 Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
- 3 Transfers the goods or merchandise of any store or retail establishment from one container to another;
- 4 Interchanges the label or price tag from one item of merchandise with a label or price tag from another item of merchandise; or
- 5 Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

In any prosecution for theft by shoplifting, in order to allow the owner of shoplifted property the use of such property pending criminal prosecutions, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

- a. A description of the property;
- b. The name of the owner of the property;
- c. The time, date and location where the shoplifting occurred;
- d. The time and date the photograph was taken;
- e. The name of the photographer; and
- f. Verification by the arresting officer.

Prior to allowing the use of shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading. (Ref. 28-514 RS Neb.)

## SECTION 2-128: REPEALED

(REPEALED BY ORDINANCE 194(09), June 9, 2009)

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-129: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority, cut down, carry away, injure, break down or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Ref. 17-555, 18-806, 28-519 RS Neb.)

## SECTION 2-130: UNLAWFUL ASSEMBLY

It shall be unlawful for three or more persons to assemble together upon any sidewalk or street thereof, in front of or adjacent to any store, shop or other place of business, so as to obstruct the public right-of-way along said street or sidewalk, or entrance to said place of business, or so as to obstruct or injure the carrying on of any lawful business in any of the places aforesaid within the limits of the City.

## SECTION 2-131: BILLBOARDS

No billboard, which is hereby designated as a nuisance, upon which any advertising matter or legend is or may be written shall be located nearer than 12 feet to any street or highway in this city or so that it obstructs the view at a street or highway intersection; provided, nothing herein shall be construed to mean the flat surface of buildings, stores or offices.

## SECTION 2-132: LEAVES AND SNOW IN STREETS

It shall be unlawful for any person to shovel, rake or sweep snow or leaves into the streets and gutters of the City.

## SECTION 2-133: TOXIC INHALANTS PROHIBITED

It shall be unlawful for any person to breathe or inhale any substance for the purpose of inducing a condition of intoxication, depression, exhilaration, or any other distorting or disturbing state, which affects the auditory, visual or nervous processes. Any person who shall sell or offer for sale any container of a substance producing such an effect and having the property of releasing toxic vapors shall be guilty of a misdemeanor if he/she has cause to suspect that the product sold will be used in violation of this section.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-134: IMPROPER DISPOSAL OF YARD WASTE

Any person who deposits, throws, discards or otherwise disposes of any material other than those specifically approved and listed here in the areas designated by the City of Albion for disposal of yard waste and trees shall be guilty of a misdemeanor and subject to a fine of not less than \$100 nor more than \$500 per instance. Said person shall also be responsible for any fines, damages, or costs that may be charged to or incurred by the City as a result of such violation.

Approved materials shall be limited to the following:

- (a) Grass, Weeds, Brush and other Plant Material
- (b) Trees, Leaves, and other Parts or Byproducts of Trees Not Specifically Exempted

The above list shall not be construed to include treated lumber which is defined for the purposes of this ordinance as material that has been changed or altered through a chemical process which contain paint, resin, preservatives, or other similar substances. Examples of which include but are not limited to the following:

- (a) Painted Lumber Wood Siding (e.g., from a house or other building, fence, or interior house trim);
- (b) Glued Particleboard or Plywood (e.g., cabinets or flooring);
- (c) Creosoted Wood (e.g., railroad ties, telephone poles, bridge planks or fence posts);
- (d) Stained Wood (e.g., flooring, doors, trim, cabinets or decking);
- (e) Wood Preserved with Fungicide or Pesticide (e.g., shingles, siding or decking)

*{Ordinance 255(17), February 15, 2017}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-135: SEXUAL PREDATOR RESIDENCY RESTRICTION

- (1) DEFINITIONS: For purposes of this section the following terms shall be defined as follows:
  - a) "Child Care Facility" means a facility licensed pursuant to the Child Care Licensing Act (Neb. Rev. Stat. § 71-1908);
  - b) "School" means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Chapter 79 of the Nebraska Revised Statutes;
  - c) "Sex Offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. § 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
  - d) "Sexual Predator" means an individual who is required to register under the Sex Offender Registration Act (Neb. Rev. Stat. § 29-4001), who has committed an aggravated offense as defined in Neb. Rev. Stat. § 29-4001.01, and who has victimized a person eighteen years of age or Younger.
  - e) "Reside" means to sleep, live or dwell at a place, which may include more than one location and may be mobile or transitory;
  - f) "Residence" means a place where an individual sleeps, lives or dwells, which may include more than one location and may be mobile or transitory, a location will not be considered an individual's residence if the individual has not resided at that location for a period of six months or more;
- (2) It shall be unlawful for any sexual predator to reside within five hundred (500) feet from a School or Child Care Facility.
- (3) For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the nearest outer boundary of the residence and the nearest outer boundary of the School or Child Care Facility.
- (4) This ordinance shall not apply to a sexual predator who:
  - a) resides within a prison or a correctional or treatment facility operated by the state or a political subdivision;
  - b) established a residence before August 1, 2014, and has not moved from that residence; or
  - c) established a residence after August 1, 2014, and the School or Child Care Facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.
- (5) Any individual who violates this ordinance shall be guilty of a misdemeanor and shall be subject to the penalties provided in Section 2-701 of the Municipal Code of the City of Albion.  
{*Ordinance 234(14), July 8, 2014*}

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE II -CURFEW

### SECTION 2-201: CURFEW HOURS

It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the city between the hours of 10:00 P.M. of any day until the hour of 6:00 A.M. of the following day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

### SECTION 2-202: CURFEW HOURS EXTENDED

Nothing herein contained shall prohibit said minor persons from attending special school functions or adult supervised entertainment conducted by any school, church or fraternal organization, which continue beyond the curfew hours as set out in Section 2-201 above. In all such cases the hours herein prohibited shall be extended for those minors attending said special social function or entertainment one hour after the closing of said special function.

### SECTION 2-203: VIOLATION; PARENTAL LIABILITY

It shall be unlawful for the parent, guardian or other adult person, having the care and custody of minors under the age of 16 years to allow or permit said minor person to do any of the acts or things prohibited by Section 2-201 or 2-202.

### SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force, while on duty, shall be authorized to detain any such minor willfully violating the provisions of this ordinance, and upon apprehension of said minor shall forthwith notify by telephone or other appropriate means the parents or legal guardians or person in custody of said minor child.

### SECTION 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable by a warning for the first offense, a fine of \$10.00 for the second offense, and a third and any subsequent violation shall constitute a violation of Section 2-203 and the parents of said child shall be held liable.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE III -DOGS

### SECTION 2-301: OWNER DEFINED

Any person who shall harbor or permit any dog to be present for ten days or more in or about his/her house, store or enclosure, or allow to remain to be fed, shall be deemed liable for all penalties herein described. (Ref 54-606, 71-4401 RS Neb.)

### SECTION 2-302: LICENSING OF DOGS

Any person who shall own, keep or harbor a dog over the age of six months within the City shall, within 30 days after acquisition of the said dog, acquire a license for each such dog annually by or before the first day of April of each year. The said tax shall be delinquent from and after April 30th; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to April 1st of any year shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten days thereafter. Licenses shall be issued by the city clerk upon the payment of a license fee in an amount of \$6.00. When issued, such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and address and the name, breed, color and sex of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

Upon payment of the license fee, the city clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of any dog so licensed and shall entitle the owner to keep or harbor the said dog until March 31st following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year and may charge and collect a fee of \$1.00 for each such duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year. (Ref 17-526, 54-603, 71-442 RS Neb.)

### SECTION 2-303: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other city identification than that issued by the city clerk for dogs. (Ref. 17-526, 54-603 RS Neb.)

### SECTION 2-304: REMOVAL OF TAGS

It shall be unlawful for any person to remove or cause to be removed the collar, harness or metallic tag from any licensed dog without the consent of the owner, keeper or possessor thereof. (Ref. 17-526 RS Neb.)



# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-305: UNLICENSED DOGS

All dogs found running at large upon the streets and public grounds of the City without a license tag affixed as required in this article are hereby declared a public nuisance.

## SECTION 2-306: BARKING AND OFFENSIVE DOGS PROHIBITED

It shall be unlawful for any person to own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood or person, or which habitually barks or chases pedestrians, vehicles or riders of horses · while they are on any public sidewalks, streets or alleys in the City; provided, the provisions of this section shall not be constructed to apply to any city dog shelter.

## SECTION 2-307: DOGS RUNNING AT LARGE; DESTRUCTION

"Running at large" shall mean any dog found off the premises of the owner and not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. It shall be unlawful for any person to suffer or permit any dog to run at large within said city, and every dog found running at large in violation hereof is declared to be a public nuisance and may be picked up and disposed of by the animal control officer or city police officer. Any person who permits his/her dog to run at large within the confines of the City is hereby deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined no more than that sum permitted by Nebraska law and shall pay the costs of prosecution. This penalty shall be in addition to any other penalties prescribed by this article, either against the owner or the particular dog. (Ref. 17-526, 54-607 RS Neb.)

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-308: DANGEROUS DOGS; DEFINITIONS

"Animal control authority" shall mean an entity authorized by the City Council of Albion to enforce the animal control laws of the City.

"Animal control officer" shall mean any individual employed, appointed or authorized by the Animal Control Authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and shall include any state or local law enforcement personnel or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

"Dangerous dog" shall mean any dog that, according to the records of any animal control authority:

1. has killed or inflicted severe injury on a human being on public or private property;
2. has killed a domestic animal without provocation while the dog was off the owner's property;  
or
3. has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property owner of the dog; who was tormenting, abusing or assaulting the dog; who has, in the past, been observed or reported to have tormented, abused or assaulted the dog; or who was committing or attempting to commit a crime.

"Domestic Animal" shall mean a cat, a dog or livestock.

"Owner" shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

"Potentially dangerous dog" shall mean:

1. any dog that, when unprovoked, inflicts a non-severe injury on a human or injures a domestic animal on public or private property, or chases or approaches a person upon streets, sidewalks or on any public ground in a menacing fashion or apparent attitude of attack, or
2. any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

"Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures, cosmetic surgery, or one or more broken bones or that creates a potential danger to the life or health of the victim. (Ref. 54-617 RS Neb.)

## ALBION CITY CODE, CHAPTER II - MISDEMEANORS

### SECTION 2-309: DANGEROUS DOGS ON OWNER'S PROPERTY; CONFINED

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping.

The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements.

The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Ref. 54-619 RS Neb.)

### SECTION 2-310: DANGEROUS DOGS OFF OWNER'S PROPERTY; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash. (Ref. 54-618 RS Neb.)

### SECTION 2-311: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article, and said officer may enter upon private property in order to confiscate the animal. In lieu of confiscation, the animal control officer may immediately destroy the dangerous dog if it poses a threat of harm to said officer or any other person or property. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care and boarding of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the owner violated this article. (Ref. 54-620 RS Neb.)

### SECTION 2-312: DANGEROUS DOGS; IMPOUNDMENT, DESTRUCTION

In addition to any other penalty, the Animal Control Authority shall order the animal control officer to dispose of a dangerous dog in a humane manner. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment. Upon such request, the Animal Control Authority shall schedule the matter to be heard at a special or regular meeting of the Animal Control Authority, at which time the owner must present clear and convincing evidence that the dog will not present a present nor future threat to the safety of the public or to public property. The Animal Control Authority shall not be bound by the Nebraska Rules of Evidence. Upon such proof to the satisfaction of the Animal Control Authority, the dog may be returned to the owner after the owner pays all costs of confinement, board, medical treatment, food and care for the dog. If the foregoing costs are not paid within 15 days of the hearing, the dog shall be destroyed.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-313: RABIES VACCINATION

Every dog three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Puppies shall be vaccinated within 30 days after having reached three months of age. Unvaccinated dogs acquired or moved into the City must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above. The provisions of this ordinance with respect to vaccination shall not apply to any dogs owned by a person temporarily residing within this city for less than 30 days, any dog brought into this city for show purposes, or any dog brought into this city for hunting purposes for a period of less than 30 days; such dogs shall be kept under the strict supervision of the owner.

## SECTION 2-314: RABIES SUSPECTED; IMPOUNDMENT

Any dog or other animal suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a police officer or animal control officer of this city and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon said owner paying the costs of said impoundment, or, in the case of a stray, shall be disposed of in whatever manner deemed best by the city police officer. (Ref. 71-4406 RS Neb.)

## SECTION 2-315: RABID DOGS; CAPTURE IMPOSSIBLE

The animal control officer shall have the authority to kill any domestic animals with the characteristics of rabies which make capture impossible because of the danger involved.

## SECTION 2-316: RABID DOGS; PROCLAMATION

It shall be the duty of the City Council or mayor whenever, in their opinion, the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than ninety days from the date of such proclamation, or until such danger is past. The dogs may be harbored by any good and sufficient means in a house, garage or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

## SECTION 2-317: FIGHTING DOGS

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. Any person convicted of violating this section shall be fined in any sum not exceeding that permitted by Nebraska law. (Ref. 17-526 RS Neb.)

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-318: KILLING AND POISONING

It shall be unlawful to kill, administer or cause to be administered poison of any sort to a dog, or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim or destroy any dog that is the property of another person, or to place any poison or poisoned food where the same is accessible to a dog; provided, this section shall not apply to city policemen acting within their power and duty. (Ref. 28-1002 RS Neb.)

## SECTION 2-319: INTERFERENCE WITH POLICE

It shall be unlawful for any person to hinder, delay or interfere with any animal control officer who is performing any duty enjoined upon him/her by the provisions of this article, or to break open or in any manner directly or indirectly aid, counselor advise the breaking open of the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter.

## SECTION 2-320: DAMAGE BY DOG; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person.

## SECTION 2-321: IMPOUNDING

It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated city animal shelter any dog violating any of the provisions of this article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five days, unless reclaimed earlier by the owner. No later than 24 hours after the impoundment of any dog, notice of impoundment of all animals, including any significant marks or identification, shall be posted for three days at the office of the city clerk as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file at the office of the city clerk. The owner shall then be required to comply with the rabies vaccination requirements within 72 hours after release. If the dog is not claimed at the end of five days, the animal control officer may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, if the animal control officer can find a suitable home for the impounded dog he/she may turn the dog over to any person willing to provide the dog with a home. In this event the new owner shall be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed dog impounded in the animal shelter after five days. All unclaimed dogs not placed for adoption shall be destroyed and buried in a humane manner as prescribed by the Board of Health. (Ref. 17-548, 71-4408 RS Neb.)

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-322: OFFICER'S COMPENSATION

For destroying and burying dogs under the provisions of this article, the official appointed to destroy said dogs shall be paid, in addition to his/her regular salary, the sum of \$2.00 for each dog so destroyed and buried. (Ref. 17-526 RS Neb.)

## SECTION 2-323: ANIMAL SHELTER

The animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of dogs. The said shelter shall be sanitary, ventilated and lighted.

## DANGEROUS AND VICIOUS DOG REGULATIONS

### SECTION 2-324: DEFINITIONS

(1) "Dangerous Dogs" as defined in Section 2-308.

(2) "Vicious Dogs" as used in this Ordinance means: (a) any Pit Bull Terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains, as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier; (b) any Doberman Pinscher as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Doberman Pinscher, (c) any Rottweiler as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Rottweiler; (d) any Chow as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Chow; (e) a "service animal," as defined by the Americans with Disabilities Act, shall not be considered a vicious dog, regardless of its breed.

(3) "Untagged Animals" as used in this Ordinance means: An animal is considered to be untagged if a valid license tag is not attached to a collar which is kept on the animal.

\*This section as amended by Ordinance 274 (18) – October 9, 2018

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-325: VICIOUS DOGS

(1) No person shall harbor, keep or maintain within the City limits of the City of Albion any vicious dog which was not currently registered and licensed by the City of Albion on or before October 12, 2004. This prohibition shall not be applied to animals being transported through the City limits of the City of Albion within a one-hour period of time.

(2) Any person having knowledge which he or she believes constitutes probable cause to believe that another is harboring, keeping or maintaining a vicious dog which was not registered with and licensed by the City of Albion on or before October 12, 2004, in the City of Albion, shall file with the Albion Police Department a sworn affidavit setting forth the basis on which they believe the animal to be a vicious dog, the name and address of the owner of the dog, and a description of the dog. The Police Department shall, upon receipt of such affidavit, inquire of the City Clerk:

(i) If the dog was licensed on October 12, 2004, and

(ii) If the dog is currently registered as a vicious dog pursuant to the provisions of this Ordinance.

If the dog was not registered and licensed by the City of Albion on the date of the complaint or affidavit, or is not currently registered pursuant to the provisions of this Ordinance, the City Clerk shall notify the Albion Police Department of this fact and the Albion Police Department shall serve notice upon the owner of the alleged vicious dog, including the requirement that the owner shall bring said alleged vicious dog to the veterinarian stated in the aforementioned notice for inspection to determine whether the dog is a vicious dog by definition as set forth in this Ordinance. In the event that the veterinarian determines that the dog is a vicious dog as set forth by definition in this section, the Albion Police Department shall cite the owner of the alleged vicious dog in accordance with the provisions of this section.

## SECTION 2-326: DANGEROUS DOGS

Any person having knowledge which he or she believes constitutes probable cause to believe that another is harboring, keeping or maintaining a dangerous dog which is not registered with and licensed by the City of Albion in accordance with this Ordinance, shall file with the Albion Police Department a sworn affidavit setting forth the basis on which they believe the animal to be a dangerous dog, the name and address of the owner of the dog, and a description of the dog. The Police Department shall, upon receipt of such affidavit, inquire of the City Clerk if the dog is currently registered as a dangerous dog pursuant to this Ordinance within. If the dog is not registered, the City Clerk shall notify the Albion Police Department of this fact and the Albion Police Department shall serve notice upon the owner of the alleged dangerous dog, which notice shall include the requirement that the owner shall bring the alleged dangerous dog to the veterinarian stated in the aforementioned notice for inspection to determine whether this dog is a dangerous dog by definition as set forth in this Ordinance.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-327: REGISTRATION

(1) All owners of dangerous dogs or vicious dogs shall, on or before \_\_\_ October 12, 2004 ,and annually thereafter on or before April 30<sup>th</sup> of each year, register their dog and provide a current color photograph of the dog with the City Clerk's Office and pay a registration fee of \$ 6.00 . At, the time of registration, each owner of any dangerous dog or vicious dog kept within the City limits of the City of Albion shall provide to the City Clerk's office proof of liability insurance in the amount of at least \$100,000.00 for any acts of property damage or liability incurred by virtue of injury inflicted by such dog. Such insurance shall name the City as coinsured solely for the purpose of notice of cancellation of the policy. Upon payment of the fee, the City Clerk shall issue a current dangerous dog collar of an approved color for the purpose of identification, and which collar is to be worn by the dog at all times as proof of registration. If, when due to the length of the dog's hair, the collar is not visible, an approved colored lead or chain shall be used.

(2) An owner of a dangerous dog or vicious dog who fails to register the dog is subject to a forfeiture of not less than \$ 50.00 nor more than \$ 100.00 PER DAY.

(3) An owner of a dangerous dog or vicious dog who registers but neglects to have the dangerous dog collar worn by the dog at all times is subject to a forfeiture of not less than \$ 50.00 nor more than \$ 100.00 PER DAY.

(4) A dangerous dog collar may be removed from a dangerous dog or vicious dog for grooming or purposes of other care when the dog is secured indoors or in an approved pen.

(5) The owner of any vicious dog registered and licensed by the City Clerk on or before October 12, 2004 shall comply with all provisions of this Ordinance applicable to dangerous dogs. Any owner of a vicious dog who fails to keep current the dog's license and registration as provided herein must remove the dog from the City of Albion and will not be eligible to re-register the dog. The owner of any previously-permitted vicious dog who fails to keep current the dog's license is subject to the penalties applicable to any vicious dog not registered and licensed on October 12, 2004.



# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-328: REQUIRMENTS OF DANGEROUS DOGS AND VICIOUS DOGS

(1) While on the owner's property, a dangerous dog or vicious dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must have a minimum dimension of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog.

(2) The owner or keeper shall display a sign on his or her premises facing out from all sides of the premises warning that there is a dangerous dog or vicious dog on the property. This sign should be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog or vicious dog.

(3) A dangerous dog or vicious dog may be off the owner's premises if it is muzzled and restrained by an approved lead or chain not exceeding three feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or its respiration, but must prevent it from biting any person or animal.

(4) The provisions of this Ordinance regarding dangerous or potentially dangerous dogs or vicious dogs shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

## SECTION 2-329: APPREHENSION AND IMPOUNDMENT

(1) It shall be the duty of such persons, as from time to time may be designated by resolution of the City Council, to apprehend any unlicensed dogs. The Albion Police Department shall, whenever possible, see that such dogs are transferred to a designated kennel at the earliest possible date, where the dogs may be taken care of and reclaimed by the owner under the rules and regulations of said kennel. When the dog is impounded by the City before being transferred to a kennel, the owner reclaiming the dog shall be required to pay such amounts as are established by resolution by the City of Albion.

(2) It shall be the duty of the Albion Police Department and such other persons, as from time to time may be designated by resolution of the City Council, to apprehend any dangerous dogs or vicious dogs running at large. Any dangerous dog or vicious dog found running at large shall be impounded and may be returned to its owner only upon proof of registration as a dangerous dog or vicious dog. A police officer may shoot a dog if the dog attacks the officer or approaches the officer in a menacing fashion so that the officer believes that the dog is about to attack.

(3) In any event, when a dog is impounded, the impounding authority shall give notice to the owners of the impoundment and advise the owners whether and under what circumstances the dog may be redeemed. The owner of any animal impounded, confined or destroyed pursuant to the terms of this Ordinance shall be responsible for all costs of such confinement, impoundment or destruction.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-330: REMOVAL OF DOG PENDING LITIGATION

Whenever any person is charged with harboring a dangerous dog or vicious dog as defined in this Ordinance, that person shall, to the satisfaction of the Court, remove said dog from the City of Albion until the trial of the citation. If the owner fails to remove the dog within 48 hours of the service of the citation, the Albion Police Department shall impound the dog until the trial on the citation. If the dog is determined by plea or trial to be a dangerous dog or vicious dog provided by this Ordinance, it shall not be returned to or kept in the City of Albion. Any dog returned to or kept in the City of Albion after being determined to be a dangerous dog or a vicious dog constitutes a public nuisance as pursuant to Section 2-601 of the City of Albion Municipal Code.

## SECTION 2-331: LICENSE REQUIRED

All dogs shall be licensed as provided on Section 2-302 of the City of Albion Municipal Code.

## SECTION 2-332: VIOLATIONS

A separate offense shall be deemed committed on each day during or on which a violation of this Ordinance occurs or continues. In addition to the foregoing penalties, any person who violates this Ordinance shall pay all expenses, including shelter, food, handling, veterinary care, and expert testimony fees necessitated by enforcement of this Ordinance.

## SECTION 2-333: SEVERABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction or by any agency of any kind or by anyone else, the remainder of this Ordinance shall not be affected.

*{REGULATION OF DANGEROUS DOGS OR VICIOUS DOGS: Sections 2-324 through 2-333: Ordinance 150(04), October 12, 2004}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE IV -KENNELS

### SECTION 2-401: KENNELS; DEFINED

"Kennel" is defined for this article as any lot or parcel of land or place where more than three dogs or more than three cats over the age of 12 weeks are confined, treated, boarded, housed or cared for, and shall include any lot or parcel of land or place where a person, corporation or other entity engages in, conducts, manages or maintains a veterinary business, regardless of the number of animals treated, kept, confined or boarded.

### SECTION 2-402: UNLICENSED KENNELS; NUISANCE

It is hereby declared that it is and shall be a nuisance for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefore.

### SECTION 2-403: KENNELS; LICENSE REQUIRED

It is unlawful for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefore.

### SECTION 2-404: KENNEL LICENSE; APPLICATION FOR

Any person or legal entity seeking a kennel license shall make written application to the City Council. Such application shall state in detail the type, number and gender of animals to be held in such kennel, describe the kennel facility in detail and provide such other information as may be required by the City Council. Such application shall also have attached thereto the consent of all property owners or occupants of lands or lots adjoining the land upon which the proposed kennel is to be located. In the event that the City Council determines that such kennel would not constitute a nuisance, it shall issue such license on such terms and conditions as it deems appropriate. Such license shall be on an annual basis and may be revoked after notice and hearing for violation of any term or condition of the issuance of the license. The annual license fee shall be \$50.00 and the license shall not be issued until such fee is paid.

### SECTION 2-405: KENNEL REGULATIONS

Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE V – ANIMALS AND FOWL

### SECTION 2-501: PROHIBITION

It is hereby determined unlawful for any person to keep, maintain or confine any snakes, exotic animals or domestic farm animals within the corporate limits of the City or within one mile thereof except as hereinafter provided.

### SECTION 2-502: DEFINITIONS

"Domestic farm animal" is defined as any horse, sheep, mule, cow, goat, swine or offspring thereof or any other livestock generally raised for commercial sale.

"Exotic animal" is defined as any llama, zebra, buffalo or other animal other than a domestic farm animal or dog, weighing more than 50 pounds.

### SECTION 2-503: EXEMPTIONS

It shall be lawful to keep and maintain domestic farm animals in enclosed or fenced areas on private property, provided such animals are confined on not less than one acre of land per animal and provided such enclosed or fenced areas are not located within 200 feet of a habitable structure owned by someone other than the owner of the livestock or person in control of such livestock.

### SECTION 2-504: FOWL; RUNNING AT LARGE

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowl to run at large within the corporate limits. Such fowl may be maintained within the City if the same are confined in cages inside an enclosed building.

### SECTION 2-505: PENALTY

Anyone harboring any livestock as described in Section 2-502 or permitting fowl to run at large shall be deemed guilty of a misdemeanor and shall be fined in a sum not exceeding that permitted by Nebraska law for violation of a municipal ordinance, and each days maintenance described in Section 2-501 shall be determined as a separate offense and may be prosecuted as such.

### SECTION 2-506: OWNER DEFINED - CAT

Any person who shall harbor or permit any cat to be present for ten days or more in or about his/her house, store or enclosure, or allow to remain to be fed, shall be deemed liable for all penalties herein described. (Ref. 54-606, 71-4401 RS Neb.)

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-507: OFFENSIVE NOISE OF CATS PROHIBITED

It shall be unlawful for any person to own, keep or harbor any cat which by loud, continued or frequent noise shall annoy or disturb any neighborhood or person for more than fifteen (15) minutes which can be heard beyond the boundary of the owner's property.

## SECTION 2-508: CATS RUNNING AT LARGE; DESTRUCTION

"Running at large" shall mean any cat found off the premises of the owner and not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. It shall be unlawful for any person to suffer or permit any cat to run at large within said City, and any cat found running at large in violation hereof is declared to be a public nuisance and may be picked up and disposed of by the animal control officer or city police officer in the same manner as dogs. Any person who permits his/her cat to run at large within the confines of the City is hereby deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined no more than the sum permitted by Nebraska law and shall pay the costs of prosecution. (Ref. 17-526, 54-607 RS Neb.)

## SECTION 2-509: RABIES VACCINATION

Every cat three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Kittens shall be vaccinated within 30 days after having reached three months of age. Unvaccinated cats acquired or moved into the City must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above. The provision of this ordinance with respect to vaccination shall not apply to any dogs or cats owned by a person temporarily residing with this city for less than 30 days. For purposes for a period of less than 30 days; such dogs or cats shall be kept under strict supervision of the owner.

## SECTION 2-510: DAMAGE BY CAT; LIABILITY OF OWNER

It shall be unlawful for any person to allow a cat owned, kept or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. Any person owning a cat shall promptly remove and dispose of all feces left by the cat on any public property and on any private property not owned by any such person or lawfully occupied by such person. Property damage by a cat or feces not removed in violation hereof is declared to be a public nuisance.

*{Sections 2-506 through 2-510: Ordinance 107(01), January 9, 2001}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE VI - NUISANCE

### GENERAL PROVISIONS

**PURPOSE.** City of Albion, Nebraska, by this Article defines its authority to define, regulate, suppress and prevent nuisances, and to declare what shall be a nuisance for its jurisdiction and to provide services to abate same for the health and sanitation of the City. (NRS§18-1720)

### SECTION 2-601: DEFINITIONS.

**(A) NUISANCE.** A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing:

- (1) Injures or endangers the comfort, repose, health, or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property; or
- (7) Tends to depreciate the value of the property of others.

**(B) Nuisance includes, but is not limited to,** the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things of:

1. Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
2. The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety.
3. Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;
4. Filthy, littered, or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
5. Dead animals or dead animals buried within the corporate limits
6. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

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7. Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;
8. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the approved by the municipality;
9. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
10. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;
11. Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;
12. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;
13. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality or are maintained and kept in such a manner as to be injurious to the public health;

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14. Dead or diseased trees within the right-of-way of Streets within the corporate limits of the City, or on private property within the one mile zoning jurisdiction beyond the corporate limits (NRS §17-555);
15. Undrained lots which hold or may hold stagnant water or any other nuisance;
16. Any condition which allows the perpetuating of insects and rodents;
17. Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;
18. Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than thirty (30) days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition. "Vehicle" means the same as defined by NRS Section 60-136: a "motor vehicle, all- terrain vehicle, minibike, trailer, or semitrailer. "Properly registered" means as required by Nebraska Statutes;
19. Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth;
20. Weeds and worthless vegetation - see section 2-605 for specific definition and enforcement provisions;
21. All other things specifically designated as nuisances elsewhere in the City Code. (NRS §18-1720)



# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-602: ABATEMENT SERVICES & NOTICE PROCEDURE FOR NUISANCES.

**(A) NUISANCE OFFICER.** The City shall appoint an individual or organization to identify and enforce abatement of nuisances within the City. Said individual or organization shall be identified as the “Nuisance Officer” and said appointment shall be identified by resolution of the City.

### **(B) IDENTIFYING NUISANCES**

1. The City may identify suspected nuisances, in which case the City Clerk, shall upon direction of the City Council, notify Nuisance Officer of the suspected location, person or persons in violation of any provision of this chapter and provide the address of such alleged nuisance.
2. The City may request that the Nuisance Officer audit the City for nuisances in the City as defined by the City Code. The Nuisance Officer shall then view the property or area for any violations of the nuisances of the City. Nuisance Officer shall not go upon private property for said audit unless granted permission by the resident/owner of suspected property.

### **(C) CONFIRMING, DOCUMENTING AND PRESENTING NUISANCES.**

Nuisance Officer shall identify and confirm that in his or her opinion a nuisance exists as defined by Federal, State or City law.

1. Upon confirming that a nuisance appears to exist the Nuisance Officer shall document said nuisance with photographs and other evidence pertinent to the situation. Nuisance Officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.
2. Nuisance Officer shall then present this information to the City governing board at a regular or special meeting for its confirmation that a nuisance exists as stated in Article 3.

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-603: ENFORCEMENT PROCEDURES.

The nuisance, health and/or sanitation violation is brought to the Governing Body by the City Nuisance Officer, or the Board of Health or upon the Governing Body's own action. The Governing Body then may declare by resolution a nuisance, health and/or sanitation violation. The nuisance, health, and/or sanitation ordinances may be enforced by: (1) City administrative procedures; (2) Penal prosecutions through the Courts, and/or; (3) by civil procedures in the Courts. Any of these procedures, or any combination of these procedures may be used to enforce the nuisance, health and/or sanitation ordinances of the City.

### A. ADMINISTRATIVE PROCEDURE.

The City may proceed with abatement of the nuisance, sanitation, and/or health violation with or without court involvement after the following procedure is followed:

1. After a nuisance is declared the City Clerk notifies the Nuisance Officer to serve notice upon the violator(s).
2. The Nuisance Officer shall prepare and serve notice upon the violator(s) in writing describing the found nuisance and providing them a date by which abatement and removal of the nuisance must be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the Governing Body described in paragraph 4 herein.
3. The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the City or county of the City, and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.
4. The accused violator (owner/agent/occupant) may request in writing a hearing before the Governing Body of the City within five (5) days after notice of violation is served or published. For tree nuisance violations the period for requesting a hearing is extended to thirty (30) days after service.
5. If no request for a hearing is received in the required time period, the Governing Body may cause a hearing to be held. This option is at the sole discretion of the Governing Body to be used in exceptional cases.
6. If a hearing is requested, the City Clerk shall fix date of said hearing to be no more than 15 days from receipt of the request for the hearing. Notice of said hearing, stating the date and time, shall be served upon the owner(s) and occupant(s) of the property or their agent(s) by certified and regular mail.

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7. The Hearing shall be a “show cause” hearing in which the agent, owner, occupant of the nuisance property (objecting property) shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before a quorum of the governing body. The presiding official of the Governing Body may conduct the hearing or said presiding official may appoint another person as the hearing officer to conduct the hearing (said hearing officer may be the City Attorney or the Enforcement Officer). At the hearing the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide its evidence. The rules of evidence are not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the hearing officer or any person so designated by the hearing officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit.
8. No later than 14 days after the hearing and consideration of the evidence, the Governing Board may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the Objector or its designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand. If the resolution is not rescinded, the Governing Board may, by resolution, extend the date that owner, occupant, lessee, or mortgagee shall abate and remedy the said public nuisance, but in no case shall this time exceed 60 days. The findings of the Governing Board shall be made no later than 14 days after the hearing and notice of its finding shall be served upon the Objecting party by regular US Mail within 5 days of the finding. The finding of this hearing is final, provided that an interested party or parties may appeal such decision to the appropriate court for adjudication
9. If the Nuisance Officer determines the nuisance is not remedied and abated within the time period designated, the City shall cause the abatement of the nuisance.
10. If an interested party properly appeals to an appropriate court, the findings and orders of the City, City action shall be stayed until the legal proceedings are completed or dismissed. In cases of appeal from an action of the City condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. RS 19-710)

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## B. PENAL COURT ENFORCEMENT PROCEDURE.

If the declared nuisance, health, and/or sanitation violation is not abated within fifteen (15) days of service of the notice upon the owner(s) and/or occupant(s), and the City Clerk has not received a request for hearing, the Nuisance Officer may issue a citation for the code violation.

1. The citation shall be prosecuted to the appropriate court by the City Attorney or other designated prosecutor for the City.
2. A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500.00 per each offense.
3. Each day that the nuisance, as identified in the nuisance resolution and notice, is not abated shall be a separate offense and subject to a separate fine.

## C. CIVIL COURT PROCEDURE.

The Governing Board may instruct by resolution the City Attorney to file a civil action for the abatement of a nuisance. Said civil suit may commence after fifteen (15) days notice has been served as stated in Article 2 of this Chapter, and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or in progress.

## SECTION 2-604: EXPENSES.

- (A) When the City has effected the abatement of the nuisance, health and/or sanitation violation through either City employees or through contract with a third party and has incurred expenses and costs thereof, the actual cost thereof shall be charged to the owner, agent, occupant or person in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a twenty-five-dollar (\$25.00) administrative fee.
- (B) This billing shall be submitted by regular US Mail to the Owner(s) of the nuisance property at his/her last known address as shown in the records of the County Treasurer.
- (C) If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the City may levy and assess the expenses and costs upon the real estate benefitted by the actions in the same manner as other special assessments are levied and assessed, and the City may collect said assessments in the same procedure as other special assessments are collected. The City may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in Nebraska.

*{Sections 2-601, 2-602, 2-603, 2-604: Ordinance 217(12), February 12, 2013}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## SECTION 2-605: WEEDS AND WORTHLESS VEGETATION

- A. That weeds or worthless vegetation more than one foot (1') in height, being favorable to the harboring of mosquitoes, insects, rats or other vermin and also being a fire hazard, are therefore, determined by the City to be a nuisance.
- B. That the owner or occupant of any lot or piece of ground within the City shall keep the lot or piece of ground and the adjoining street or alleys free of any growth of twelve inches (12") or more in height of weeds, grass or worthless vegetation.
- C. That notice to abate and remove such nuisance shall be given to each owner or owner's authorized agent and to the occupant, if any, by personal service or certified mail. Within 10 days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have the work done and may levy and assess the costs and expenses and work upon the lot or piece of ground so benefited in the same manner as special taxes or improvements are levied and assessed.
- D. That the notice shall notify the owner, owner's agent or occupant that the property is a nuisance and that this notice shall apply for the remainder of the growing season; and if at any time growth exceeds twelve inches (12") after the first notice, that will be considered a spate offense and violation.
- E. That any owner or occupant of a lot or piece of ground shall, upon conviction for violation of this ordinance, be guilty of a misdemeanor and shall be fined for not less than \$10.00 nor more than \$100.00 for first offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.
- F. That for purposes of this Section, weeds and worthless vegetation shall include, but not be limited to: Bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plan (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).
- G. That the growing season shall consist of April 1 to October 31.
- H. That persons in charge that cause or allow violations of this ordinance to occur more than once in a calendar year shall be fined not less than \$50.00 or more than \$500.00 for each subsequent event after the first violation.

*{Section 2-605: Ordinance 170(07), August 16, 2007}*

## ALBION CITY CODE, CHAPTER II - MISDEMEANORS

### SECTION 2-606: NUISANCE; DEAD OR DISEASED TREES.

(1) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the Municipality.

(2) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the Municipality. For the purpose of carrying out the provisions of this section, the Municipal Police shall have the authority to enter upon private property to inspect the trees thereon.

(3) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty (30) days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed. (Ref. 17-555,28-1321 RS Neb.)

*{Section 2-606: Ordinance 157(05), October 11, 2005}*

# ALBION CITY CODE, CHAPTER II - MISDEMEANORS

## ARTICLE VII -PENAL PROVISION

### SECTION 2-701: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.